

March 17, 2009

House Judiciary Committee
Montana State Legislature
Capitol Building
Helena, Montana

Re: SB 381

Dear Mr. Chairman and Members of the Committee:

For the record, my name is Carol Ferguson. I am submitting this testimony on my own behalf and out of respect and concern for our communities and our neighbors.

Being an undocumented immigrant is not a criminal offense, it is a civil violation. We should look first at civil solutions, including acknowledging and addressing our own (federal) failure to process applications for visas, green cards, permanent residency status and citizenship in an efficient, timely, consistent and respectful manner.

The Immigration and Customs Agency (ICE) and the Border Patrol have been given extraordinary authority under which to enforce federal immigration laws. The alleged purpose of this authority is to expedite the identification and deportation of immigrants with serious criminal records. But this is not what ICE and the Border Patrol are doing. Instead they are "criminalizing" ordinary people; destroying families and communities; trampling on civil, legal and human rights; and committing appalling verbal, physical and legal abuses in the process. Their primary targets are "people of color," anyone who looks as though he or she might be an immigrant. This is **racial profiling** and it is **illegal**.

ICE raids targeted workplaces, makes select traffic stops, conducts targeted sweeps at day labor sites, on buses, and on AMTRAK, and either removes children from schools or leaves them not knowing what has become of their parents. In California, recently, a family from Australia, who had flown here to see a dying father and who had both visas and return airline tickets in their possession, were apprehended by ICE, held, verbally abused, and forced to return home without explanation and without seeing or being allowed to contact their relative.

ICE is expanding its "fishing expeditions." In Washington State, ICE recently raided the offices of an accountant who prepares income tax returns for Spanish-speaking people. ICE confiscated all of the financial and tax records in the accountant's office, including records of legal residents and U.S. citizens. Speaking Spanish is not a crime. Paying taxes is not a crime. Even the IRS has expressed its dismay. People tend to vastly underestimate the tax contribution immigrants make to this country. Over the past 18 years, in addition to their income taxes, immigrants, documented and undocumented, are estimated to have contributed several hundred billion dollars to the Social Security Administration's "Earnings Suspense Fund," money which is added to the general SSA Trust Fund. ICE, on the other hand, consumes an ever-growing budget that now exceeds \$ 5 billion a year.

ICE has turned the **criminalizing of people who have committed a civil violation** into a high-volume legal-maze-machine that not only runs rough-shod over individual legal rights, but also both seriously overloads and compromises the independence of the judiciary. All of this strikes at the fabric of our society. We need to change both our federal laws and ICE's application of them. We don't need to jump on a horse that appears to be headed over a cliff.

Along the Sonora Desert border with Mexico, the Border Patrol requires that apprehended migrants leave all their possessions behind, including sweaters and jackets, baby formula and blankets, medications, family letters and photographs, prayer cards, phone numbers and all personal identification. These things are never returned to them. People are verbally and physically abused – hit with flashlights and batons, shoved into cactus, knocked down and kicked. People – regardless of age or medical condition – are deliberately subjected to extremes of heat and cold. They are subjected to erratic driving in over-crowded vans or buses, deliberately intended to inflict fear and injury. People held in short-term custody – men, women, children and infants – who often are suffering from severe dehydration, hunger, cold, severe injuries and illness are, for periods of time ranging from hours to days, denied water, food, blankets, access to toilets, and access to much needed medical attention. They are not informed of the rights they have under U.S. law and international law. They are coerced into signing documents they do not understand.

Deported families are deliberately separated, taken to different border crossings, and not notified of each other's whereabouts. Children are separated from their parents. Women and unaccompanied children are dumped in the middle of the night into an extremely dangerous area of Nogales, MX, with no possessions and no access to shelter, water, food or medical attention. An unaccompanied child was deported by plane to Central America, in shackles.

The Border Patrol, ICE, partner local law enforcement agencies, and the highly-profitable but woefully unregulated private detention facilities with which they contract are facing an increasing number of lawsuits, the direct result of allegations, many well-documented, of racial profiling, widespread and systemic verbal and physical abuse of detainees, and violation of U.S. and international legal and human rights. This is happening all across the country, from Sheriff Joe Arpaio's Maricopa County, Arizona to the site of a man's agony in Rhode Island. It is clear that both ICE and the Border Patrol have "crossed the line." We should not cross it with them.

When a local law enforcement agency is sued for abuses committed while carrying out federal responsibilities under its MOA, the resulting legal costs are the responsibility of the local taxpayers – not the feds. In fact, except for the ICE training and a not always adequate compensation for temporarily housing detainees, it appears that local taxpayers – not the feds – bear all of the capital and operating costs incurred by their local law enforcement agency as a result of its MOA. Local taxes either increase to meet the additional requirements of sharing the federal responsibilities, or the level and quality of community law enforcement protection and public safety diminish, or both. Many local governments and law enforcement agencies have declined to enter into MOA's with ICE. Others are now trying to extricate themselves.

Neither the State of Montana nor its local governments should be forced into a MOA with ICE. The State should not open itself to expenses and liabilities it cannot contain, and it should not become a party to an appalling pattern of abuses. **Please vote NO on SB 381.**

Sincerely,



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